

Application No. : 10/635,836  
Filed : August 5, 2003

REMARKS

Claims 1-34 were pending in the application. By this paper, Applicant has amended Claims 2, 16, 18, and 26-32, cancelled Claim 3, and added new Claim 35. Accordingly, Claims 1, 2, and 4-35 are presented for examination herein.

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*Allowed/Allowable Claims*

Per Page 3 of the Office Action, Claims 1 and 4-15 stand allowed. Applicant thanks the Examiner for such allowances.

10 *§112 Rejections*

**Claims 32-34** – The Examiner has rejected Claims 32-34 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserts that the expression “capable of” makes the metes and bounds of the claimed subject matter unclear.

15 By this paper, Applicant has amended Claim 32 to recite, *inter alia*:

*“In a communications system ~~capable of operating~~ that operates using at least one of an asynchronous or isochronous serialized bus protocol...”*

20 Applicant respectfully submits that mended Claim 32 comports with the requirements of 35 U.S.C. §112, second paragraph, is definite and removes any “optional” features as cited by the Examiner, and is therefore in condition for allowance. Additionally, since Claims 33 and 34 both depend upon Claim 32, then these claims are also in condition for allowance.

25 *§101 Rejections*

**Claims 2, 16-25** – The Examiner has rejected Claims 2 and 16-25 under 35 U.S.C. §101 as being directed to non-statutory subject matter. Specifically, the Examiner has asserted that the phrase “a computer readable medium” may include not only computer readable storage mediums, but transmission mediums as well. The Examiner has recommended Applicant instead  
30 recite language such as: “a computer readable storage medium containing computer executable instructions.”

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In accordance with the Examiner's recommendation, Applicant has herein amended Claims 2 and 16. Applicant respectfully submits that amended Claims 2 and 16 recite statutory subject matter under 35 U.S.C. §101, and are in condition for allowance. Additionally, since Claims 17-25 depend on Claim 16, these claims should be also in condition for allowance.

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**Claim 3** – The Examiner has rejected Claim 3 under 35 U.S.C. §101 as being insufficiently clear as to determine whether the claim is statutory. Applicant has herein cancelled Claim 3, rendering this rejection moot.

10 **Claims 26-31** – The Examiner has also rejected Claims 26-31 under 35 U.S.C. §101 as being insufficiently clear as to determine whether the claims are statutory. Specifically, the Examiner has asserted that “a storage device” needs to be clarified so to recite language acceptable to embody computer executable instructions. By this paper, Applicant has amended independent Claim 26 to recite, *inter alia*, a computer readable storage medium comprising  
15 computer executable instructions.

For consistency, Applicant has also amended dependent Claims 27-31. No new matter has been added.

Applicant submits that these amendments overcome the Examiner's rejections, and place Claims 26-31 in condition for allowance.

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*New Claims*

**Claim 35** – Applicant has herein added new Claim 35 which corresponds generally to Claim 3 (now cancelled). Applicant respectfully asserts that Claim 35 recites a tangible device which should be sufficient for the purposes of the statute:

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*“Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title” (35. U.S.C. §101) (emphasis added).*

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As such, Applicant submits that Claim 35 is directed to statutory subject matter and is therefore in condition for allowance.

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*Other Amendments*

**Claim 18** – By this paper, Applicant has amended Claim 18 to now properly depend on Claim 17, instead of Claim 7 as earlier indicated.

*Other Remarks*

Applicant hereby specifically reserves all rights of appeal (including those under the Pre-Appeal Pilot Program), as well as the right to prosecute claims of different scope in another continuation or divisional application.

Applicant notes that any claim cancellations or additions made herein are made solely for the purposes of more clearly and particularly describing and claiming the invention, and not for purposes of overcoming art or for patentability. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such cancellations or additions.


Furthermore, any remarks made with respect to a given claim or claims are limited solely to such claim or claims.

If the Examiner has any questions or comments which may be resolved over the telephone, he is requested to call the undersigned at (858) 675-1670.

Respectfully submitted,

GAZDZINSKI & ASSOCIATES

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